

## REMARKS

The Examiner has rejected claims 1 and 3 and 5-8 under 35 U.S.C. §103(a) in view of JP1-157315 in view of Edwards US 3,543,438.

It is respectfully submitted that the Examiner is misreading and/or misinterpreting both of the above documents.

Only the abstract of JP1-157315 has being translated; thus we must confine our comments thereto. Firstly, we point out that JP1-157315 relates to peat moss and not to sphagnum moss. We have already discussed this point in a great deal of detail and we refer the Examiner back to the matters set out in our Response dated February 10, 2003. Briefly, sphagnum moss is the living growing plant on the top of sphagnum peat bogs - this is the material to which the present invention relates. Next, there is sphagnum peat moss or peat moss, which is the dead and partially decomposed sphagnum moss which exists as a layer between the living moss and the peat at the base of the peat bog. Lastly, there is peat which is the dead and fully decomposed sphagnum moss that exists at the base of peat bogs and actually forms the main mass of the bog. We believe we have established fully and clearly that these three products are quite different.

Reverting to JP1-157315: in this invention the peat moss, i.e. the dead and partially decomposed product is broken or cut into pieces, wetted and then maintained at 30 degrees while being mixed with fermentation bacteria and fungi to make a fermented product which is then compression moulded into a mat (not a self supporting block but a flat mat) and dried.

We agree that Edwards discloses a formed body of loose discrete particles of plant growth material; this plant growth materiel may include sphagnum moss. We have already discussed in great detail reasons why Edwards is not directly relevant but the Examiner says that If you substitute the sphagnum moss disclosed in Edwards for the peat moss used in JP1-157315, the result will be the product of the present invention. The Examiner also argues that this substitution would have been obvious to one skilled in the art.

However, going through the exercise of applying the process of JP1-157315 to sphagnum moss rather than peat moss gives a very odd result indeed: - if you attempt to do this, you would be taking sphagnum moss and breaking it or cutting it into pieces, wetting it and maintaining it at 30 degrees while mixing it with bacteria and fungi which are cellulose destroying, so that the mixture ferments in the dark until it reaches a temperature of 60 degrees centigrade. However, if you do this to sphagnum moss, you would break down the structure of the sphagnum moss: - like all plant material, sphagnum moss has a large component of cellulose and destroying this would break down the structure of the moss. The resultant block, because structure has been destroyed, would not hold moisture adequately for the purposes of the present invention and simply would not be a usable product.

The fact that the structure described in JP1-157315 has any remaining plant material broken down by the fermentation process does not matter for the end use envisaged in that publication because it is intended to be a mat used as a substitute for soil, i.e. a thin flat product.

We also argue with the Examiner's conclusion that it would have been obvious to one of ordinary skill in the art to modify JP1-157315 by using sphagnum moss. Sphagnum moss, peat moss and peat all are obtained from the same source; thus, if peat moss was available to the inventor of JP1-157315, so was peat and so was sphagnum moss. It follows from this that if the inventor of JP1-157315 had wished to use his process on sphagnum moss he had the means readily at hand to do so. We suggest that the reason that the inventor of JP1-157315 did not use sphagnum moss in his process was that the process was completely unsuited to sphagnum moss: - as set out above, using the process described in JP1-157315 on sphagnum moss would produce a product which would seem to be completely useless for any purpose whatsoever.


Accordingly, it is respectfully submitted that claim 1 distinguishes in novelty over the Examiner's citation of JP1 157315 even considered in view of Edwards US 3,543,438.

Claims 3, 5-8 and 14, being dependent from claim 1, are urged to be allowable therewith.

Favorable consideration and passage to allowance are respectfully solicited.

No fee is considered due for filing this Amendment. However, authorization is hereby given to charge our Deposit Account No. 13-0235 in the event any additional fees are owed.

Respectfully submitted,

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